

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

SIERRA CLUB,

Plaintiff,

v.

CITY OF MENASHA
and
MENASHA UTILITIES,

Defendants.

Case No: 1:09 cv 122-WCG

STIPULATION

The Plaintiff, Sierra Club, by its attorneys, McGillivray, Westerberg & Bender LLP by Attorney David C. Bender, and the Defendants, City of Menasha and Menasha Utilities, by their attorneys, DeWitt Ross & Stevens, S.C. by Attorney Harry E. Van Camp, and the Wisconsin Department of Natural Resources by its attorney, Assistant Attorney General Cynthia Hirsch, stipulate and agree as follows:

1. Sierra Club ("Sierra") and City of Menasha and Menasha Utilities ("Menasha") have negotiated a Consent Decree, which they have agreed to submit to the Court to resolve the disputes in this case.

2. Throughout the negotiations leading to the proposed Consent Decree, Sierra and/or Menasha have repeatedly communicated the provisions of the Consent Decree to the Wisconsin Department of Natural Resources ("WDNR").

3. It is the desire of Sierra and Menasha that WDNR approve and adopt the Consent Decree and thereby become a party to the ultimate Consent Decree entered by the Court.

4. WDNR has agreed to become a party to the Consent Decree.

5. Sierra, Menasha, and WDNR agree that WDNR be made a party to this action for the sole and exclusive purpose of becoming a party to the proposed Consent Decree, a copy of which is attached hereto and marked Exhibit 1.

6. WDNR will voluntarily submit to the jurisdiction of this Court for the sole and exclusive purpose of becoming a party to the Consent Decree negotiated between Sierra and Menasha.

7. WDNR, subject to the terms of the Consent Decree, agrees that any claims it has or may have related to the Menasha project which precipitated this Sierra lawsuit will be resolved by entry of the Consent Decree.

Dated this ____ day of October, 2010.

McGILLIVRAY, WESTERBERG & BENDER LLP

By: s/ David C. Bender

David C. Bender (#1046102)
305 South Patterson Street
Madison, WI 53703-3552
608-310-3556

Attorneys for Plaintiff

Dated this ____ day of October, 2010.

DEWITT ROSS & STEVENS s.c.

By: s/Harry E. Van Camp

Harry E. Van Camp (#1018568)
Two East Mifflin Street, Suite 600
Madison, WI 53703-2865
608-255-8891

Attorneys for Defendants

Dated this 20 day of November,
2010.

STATE OF WISCONSIN

By: Cynthia Hirsch

Cynthia Hirsch (#1012870)
Wisconsin Department of Justice
17 West Main Street
Madison, WI 53702
608/266-3861

Attorneys for Wisconsin Department
of Natural Resources